



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 11 2002

REPLY TO THE ATTENTION OF

SPECIAL NOTICE LETTER
URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

EPA Region 5 Records Ctr.



368395

Re: Ellsworth Industrial Park Site
Wisconsin Avenue
Downers Grove, DuPage County, Illinois (the "Site")

Dear Sir:

The United States Environmental Protection Agency (U.S. EPA) has undertaken response actions at the Ellsworth Industrial Park Site (the Site) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499 (CERCLA). These actions, which include extensive sampling in and around the Site have documented the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. A list referencing the sampling activities and studies which have taken place in Ellsworth Industrial Park Site is included in Enclosure A. Specific findings from certain of these studies concerning the Site are presented in the proposed Administrative Order on Consent (AOC) appended hereto as Enclosure D.

Additional Response Actions

Unless U.S. EPA determines that a Potentially Responsible Party (PRP) will voluntarily undertake the response action necessary at the Site, U.S. EPA may, under Section 104 of CERCLA, undertake the response action itself and, under Section 107 of CERCLA, seek reimbursement from PRPs of all costs incurred in connection with the action taken. Such costs may include, but are not limited to, expenditures for investigation, planning, response

and enforcement activities. Moreover, under Section 106 of CERCLA, U.S. EPA may order responsible parties to implement relief actions deemed necessary by U.S. EPA to protect the public health, welfare or environment from an imminent and substantial endangerment because of an actual or threatened release of a hazardous substance from a Facility.

In addition to those further response actions enumerated above, U.S. EPA may, pursuant to its authorities under CERCLA and other laws, determine that other clean-up activities are necessary to protect public health, welfare and the environment.

PRP Determination

PRPs under Section 107 of CERCLA include current owners and operators at the Site and former owners and operators at the Site at the time of disposal of hazardous substances, as well as persons who owned or possessed hazardous substances and arranged for disposal, treatment, or transportation of such hazardous substances and persons who accepted hazardous substances for transportation for disposal or treatment to a facility selected by such transporter. U.S. EPA has information indicating that you are a PRP with respect to the Site. A general description of the sources of information regarding PRPs at the Site is provided in Enclosure A to this letter. By this letter, U.S. EPA notifies you of your potential liability with regard to this matter and encourages you, as a PRP, to reimburse U.S. EPA for its costs incurred to date and to voluntarily perform or finance the response activities that the U.S. EPA has determined or will determine are required at the Site.

Special Notice and Negotiation

Pursuant to Section 122(e)(1) of CERCLA, U.S. EPA has determined that a period of negotiation may facilitate an agreement between the PRPs and U.S. EPA for implementation or financing of the response action. Accordingly, U.S. EPA is contacting PRPs identified for the Site to resolve their liability with respect to the Site. To assist the PRPs in negotiating with U.S. EPA concerning this matter, attached to this letter is a list of the names and addresses of other PRPs to whom this notification is being sent. It should be noted that inclusion on or exclusion from this list does not constitute a final determination by U.S. EPA concerning the liability of any party for remediation of the Site or for payment of past costs.

Upon your receipt of this Special Notice, you will have a maximum of 60 days to coordinate with any PRPs and to present to U.S. EPA a "good faith offer" to conduct and/or finance the remedial action to negotiate the terms of a Administrative Order on Consent. In accordance with the requirements of Section 122(e)(2), during this 60-day moratorium, U.S. EPA will not commence remedial action at the Site. U.S. EPA may, however, commence any additional studies or investigations authorized under Section 104(b), and take any action at the Site should a significant threat to human health or the environment arise during the negotiation period.

Good Faith Offer

A "good faith offer" as referenced above shall include the following:

- * a statement of the PRPs' willingness to conduct or finance a CERCLA Remedial Investigation and Feasibility Study (RI/FS) which is consistent with the proposed AOC and Statement of Work (SOW) and which provides a sufficient basis for further negotiations in light of U.S. EPA's SOW;
- * a detailed response to, and detailed comments, if any, on the attached proposed AOC and SOW. If your offer contemplates modifications to the AOC or SOW, please make revisions or edits to the enclosed draft and submit a version to U.S. EPA showing any such modifications. Your response should provide reasons for or the basis of major revisions to the attached proposal;
- * a demonstration of the PRPs' technical capability to undertake the RI/FS. This includes that the PRPs identify the firm expected to conduct the work, or that the PRPs identify the process they will undertake to select a firm;
- * a demonstration of the PRPs' capability to finance the RI/FS;
- * a statement of the PRPs' willingness to reimburse U.S. EPA for past response and oversight costs;
- * the name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations; and
- * a discussion of interim response measures that the PRPs may conduct to reduce or eliminate current exposures to contamination prior to implementation of the RI.

If U.S. EPA receives from the PRPs within the 60-day calendar period a written "good faith offer" which demonstrates the PRPs' qualifications and willingness to conduct or finance the RI/FS consistent with the attached AOC and SOW, U.S. EPA may extend its moratorium on commencement of the response action work up to an additional 30 calendar days. The purpose of this additional time is to allow the PRPs and U.S. EPA a period of time to finalize the settlement.

If a "good faith proposal" is not received within the initial 60-day moratorium, U.S. EPA, pursuant to Section 122(e)(4), may proceed to immediately undertake such further action as is authorized by law, utilizing public funds available to the Agency.

Demand for Costs Incurred

As mentioned above, in accordance with CERCLA and other authorities, U.S. EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site. Certain of these response actions are summarized in Paragraph 2 of Enclosure A to this letter. As soon as practicable, U.S. EPA will send Respondent(s) a bill for "past response costs" at the Site. U.S. EPA's bill will include an Itemized Cost Summary. "Past response costs" are all costs, including, but not limited to, direct and indirect costs and interest, that the United States, its employees, agents, contractors, consultants, and other authorized representatives incurred and paid with regard to the Site prior to the date of this letter. The Agency anticipates expending additional funds for response activities at the Site under the authority of CERCLA and other laws. In accordance with Section 107(a) of CERCLA, demand is also hereby made under these authorities for payment of all future costs that U.S. EPA may accrue in regard to the Site.

PRP List

As stated above, the attached list of names and addresses of any other PRPs to whom this notification is being sent is provided to assist you in contacting other PRPs in this matter and to negotiate with U.S. EPA. This list is appended as Enclosure B to this letter. Information regarding a ranking by volume and nature of substances contributed by each PRP, as contemplated by Section 122(e)(4)(A), is not available at this time. However, the AOC attached hereto as Enclosure D sets forth the areas within the Site with which each PRP is associated.

Initial Conference

To further facilitate your and any other PRPs' ability to present a "good faith offer" within the 60-day time limit, an initial settlement conference will be held. An agenda indicating the topics for discussion is appended as Enclosure C. A draft AOC and a SOW is enclosed as Enclosure D and E, respectively

90 Day Deadline

Except in extraordinary circumstances explained in a written request, no extension to the second 30 day moratorium period will be granted by U.S. EPA. As stated above, if no agreement can be reached, pursuant to Section 122(e)(4), U.S. EPA may immediately proceed to undertake such further action as authorized by law to conduct an RI/FS at the Site.

U.S. EPA Notification

As a PRP, you should notify U.S. EPA in writing within 10 days of receipt of this letter of your willingness to participate in negotiations to perform or finance the activities described

above. If U.S. EPA does not receive a timely response, U.S. EPA will assume that you do not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

The response should indicate the appropriate names, addresses, e-mail addresses and telephone numbers for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary clean-up action or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in the response to this letter and to provide a copy of the response to any other parties involved in those discussions or actions. The response letter should be sent to:

Mazin M. Enwiya, RPM
Remedial Response Section #3
U.S. Environmental Protection Agency
77 W. Jackson Blvd. (SR-6J)
Chicago, Illinois 60604-3590

-or-

Thomas J. Krueger, Associate Regional Counsel
U.S. Environmental Protection Agency
77 W. Jackson Blvd. (C-14J)
Chicago, Illinois 60604-3590

Natural Resource Trustee Notification

By a copy of this letter, U.S. EPA is notifying the State of Illinois and the Natural Resources Trustees, in accordance with Section 122(j) of CERCLA, of its intent to enter into negotiations concerning the conduct of an RI/FS at the Site, and is also encouraging them to consider participation in such negotiations.

Further Information

If you need further information regarding this letter, you may contact Mr. Enwiya, the Remedial Project Manager at (312) 353-8414. If you have an attorney handling your legal matters, please direct his or her questions to Mr. Krueger at (312) 886-0562.

We hope that you will give this matter your immediate attention.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Wendy L. Carney". The signature is fluid and cursive, with the first name "Wendy" and last name "Carney" clearly distinguishable.

Wendy L. Carney, Chief
Remedial Response Branch #1

Enclosures

- A. Site Activities and Information
- B. PRP Service List
- C. Negotiation Meeting Discussion Items
- D. AOC
- E. SOW

cc: (Letter and all Enclosures)

Fred Nika, IEPA

Office of Illinois Attorney General

Michael T. Chezik, Natural Resources Damages Trustee

ENCLOSURE A

1. The U.S. EPA has evaluated a large body of information and evidence in connection with its investigation of the Site. Based on these investigations, the U.S. EPA has information indicating that you are a potentially responsible party with respect to this Site. Specifically, the U.S. EPA has reason to believe that you are the owner/operator of the facility, or a former owner/operator of the facility at the time of disposal of hazardous substances at the facility.

2. The U.S. EPA and/or IEPA have conducted the following sampling/studies at the Site:

- a. Weston Solutions, Inc. Phase I Site Assessment Report
- b. Weston Solutions, Inc. Phase II Site Assessment Report

3. Response costs associated with the Site have been incurred by the U.S. EPA. The total U.S. EPA cost incurred for the above referenced studies and activities is currently being determined.

ENCLOSURE B

POTENTIALLY RESPONSIBLE PARTIES

Ames Supply Company
c/o John W. Loseman
Lewis, Overbeck & Furman
135 S. LaSalle St., Suite 2300
Chicago, IL 60603-4274
fax: (312) 580-1201

Ames Supply Company
2537 Curtiss Street
Downers Grove, IL 60515
fax: (630) 964-0497

Arrow Gear
James E. Pielsticker, Exec. Vice President
2301 Curtiss Street
Downers Grove, IL 60515-4036
fax: (630) 969-0253

Arrow Gear
c/o Carey S. Rosemarin
707 Skokie Blvd., Suite 505
Northbrook, IL 60062 -2857
fax: (847) 896-5786

Bison Gear & Engineering Co.
c/o Joseph A. Strubbe
Vedder, Price, Kaufman & Kammholz
222 N. LaSalle St.
Chicago, IL 60601
fax: (312) 609-5005

Bison Gear & Engineering Co.
3850 Ohio Avenue
St. Charles, IL 60174
fax: (630) 377-6777

Downers Grove Sanitary District
c/o Mark A. Latham
Gardner Carton & Douglas Suite 3400
321 N. Clark Street
Chicago, IL 60610-4795
fax: (312) 644-338

Downers Grove Sanitary District
2710 Curtiss Street
P.O. Box 1412
Downers Grove, IL 60515-0703
fax: (630) 969-0827

Fusibond Piping Systems
c/o Brett D. Heinrich
Meckler, Bulger & Tilson
123 North Wacker Drive - Suite 1800
Chicago, IL 60606
fax: (312) 474-7898

Fusibond Piping Systems
2615 W. Curtiss St.
Downers Grove, IL 60515
fax: (630) 969-2355

William Helwig
2310 N Brighton Pl
Arlington Heights, IL 60004

Liberty Copper & Wire
c/o Litton Systems, Inc.
Jill M. Palmer
Northrop Grumman Corp.
Washington Office
1000 Wilson Blvd., Ste. 2300
Arlington, VA 22209-2278
fax: (703) 351-8311

Lindy Manufacturing Company
c/o Pamela R. Hanebutt
Eimer Stahl Klevorn & Solberg
122 S. Michigan Ave., Suite 1776
Chicago, IL 60603
fax: (312) 692-1718

Magnetrol International, Inc.
c/o Michael J. Maher
Swanson, Martin & Bell
One IBM Plaza - Suite 2900
330 North Wabash
Chicago, IL 60611
fax: (312) 321-0990

Molex, Incorporated
c/o Gene Hermann
Security/Safety Manager
2222 Wellington Ct.
Lisle, IL 60532
fax: (630) 968-8356

The Morey Corporation
Dana Morey, Vice President
100 Morey Drive
Woodridge IL 60517
fax: (630) 754-2001

Precision Brand Products, Inc.
c/o A. Bruce White
Karaganis, White & Magel
414 North Orleans Street - Suite 810
Chicago, IL 60610
fax: (312) 836-9083

Lindy Manufacturing Company
David A. Collins, President
6 South 167 Canterbury Court
Naperville, IL 60540
fax: (630) 963-5308

Magnetrol International, Inc
5300 Belmont Road
Downers Grove, IL 60515
fax: (630) 969-9489

Molex, Incorporated
c/o Charles T. Wehland
Jones, Day, Reavis & Pogue
77 West Wacker
Chicago, IL 60601-1692
fax: (312) 782-8585

The Morey Corporation
c/o Jeff Zimmerman
Foley & Lardner
300 K Street, NW
Washington DC 20007
fax: (202) 672-5399
Precision Brand Products, Inc.
2250 Curtiss Street
Downers Grove, IL 60515
fax: (630) 969-0310

Principal Manufacturing Corporation
c/o Norman S. Lynn, Registered Agent
89 O'Leary Drive
Bensenville, IL 60106-1135

Principal Manufacturing Corporation
Paul A. Barnett, President
2800 S 19th Avenue
Broadview, IL 60153
fax: (708) 865-7632

RHI Holdings
c/o Donald E. Miller
Senior Vice-President and General Counsel
The Fairchild Corporation
45025 Aviation Drive, Suite 400
Dulles, VA 20166-7516
fax: (703) 478-5775

Rexnord Corporation
c/o Todd R. Wiener
McDermott, Will & Emery
227 West Monroe Street
Chicago, IL 60606-5096
fax: (312) 984-2098

Rexnord Corporation
2400 Curtiss Street
Downers Grove, IL 60515
fax: (630) 969-8827

Scot Incorporated
c/o Anthony Navitsky, Vice President and CFO
Randy Slaboch, Director of Operations
2525 Curtiss Street
Downers Grove, IL 60515
fax: (630) 969-4719

Suburban Self Storage
2333 Wisconsin Avenue
Downers Grove, IL 60515

Suburban Self Storage
c/o Robert K. Temple
McGuire Woods
77 West Wacker Drive
Chicago IL 60601
fax: (312) 849-8157

Tricon Industries, Inc.
c/o Carol A. Douglas
Ungaretti & Harris
3500 Three Bank One Plaza
Chicago, IL 60602
fax: (312) 977-4405

Tricon Industries, Inc.
Corporate Headquarters
Ralph Grandle, President
1600 Eisenhower Lane, #200
Lisle, IL 60532
fax: (630) 963-0597

White Lake Building Corporation
2537 Curtiss Street
Downers Grove, IL 60515
fax: (630) 964-0497

MAGNETEK, Inc.
c/o Peter Schneider, Manager
Environmental Affairs
26 Century Boulevard
Suite 600
Nashville, TN 37214
fax: (615) 316-5181

ENCLOSURE C

AGENDA FOR MEETING

Tentatively planned for Wednesday, October 30, 2002 at U.S. EPA's offices at 77 West Jackson Blvd, Chicago, IL. U.S. EPA will be in contact with you to confirm the date and the details.

Topics for discussion:

- *Background Information on the Site
- *Response Activities to Date
- *Liability of Responsible Parties Under CERCLA
- *Explanation of Expected PRP Response Activities Including Interim Actions.
- *Structure of Consent Order Negotiations

ENCLOSURE D

Administrative Order on Consent

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

ELLSWORTH INDUSTRIAL PARK SITE
DOWNERS GROVE, ILLINOIS

ADMINISTRATIVE ORDER BY
CONSENT PURSUANT TO
SECTIONS 104, 107 AND 122 OF CERCLA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No.
)	
ELLSWORTH INDUSTRIAL PARK SITE)	ADMINISTRATIVE ORDER BY
)	CONSENT PURSUANT TO
DOWNERS GROVE, ILLINOIS)	SECTIONS 104, 107 & 122 OF THE
)	COMPREHENSIVE ENVIRONMENTAL
Respondents:)	RESPONSE, COMPENSATION, AND
)	LIABILITY ACT, as amended,
Listed in Attachment A)	42 U.S.C. §§ 9604, 9607 and
)	9622

I. JURISDICTION AND GENERAL PROVISIONS

This Administrative Order by Consent (the "Order") is entered voluntarily by the United States Environmental Protection Agency ("U.S. EPA") and the Respondents. The Order is issued pursuant to the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604, 9607 and 9622. This authority has been delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A, 14-14-C and 14-14-D, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

This Order requires the Respondents to conduct a Remedial Investigation and Feasibility Study ("RI/FS") to investigate the nature and extent of contamination at the Ellsworth Industrial Park Site in Downers Grove, Illinois (the "Site"), which is generally depicted in figure A, and develop and evaluate potential remedial alternatives. The RI/FS shall evaluate response actions consistent with 40 CFR Part 300.430, to address the environmental concerns in connection with the areas of contamination located within and surrounding the Site. Remedial action(s) selected through the RI/FS process will be implemented pursuant to a Record of Decision to be issued by U.S. EPA.

A copy of this Order will also be provided to the State of Illinois, which has been notified of the issuance of this Order. The U.S. EPA has also notified the Federal Natural Resource trustees of the negotiations in this action pursuant to the requirements of Section 122(j) of CERCLA.

The Respondents agree to undertake all actions required by the terms and conditions of this Order. Respondents consent to and will not contest or legally challenge the U.S. EPA's authority or

jurisdiction to issue or enforce this Order. Respondents agree to comply with and be bound by the terms of this Order. Respondents further agree that in a proceeding to enforce the terms of this Order, they will not contest the basis or validity of this Order or its terms. Respondents' participation in this Order shall not constitute an admission of liability or of U.S. EPA's Findings of Fact or Conclusions of Law and Determinations contained in this Order except in a proceeding to enforce the terms of this Order.

II. PARTIES BOUND

This Order applies to and is binding upon U.S. EPA and upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order, and comply with this Order. Respondents shall be responsible for any noncompliance with this Order. Respondents shall file a copy of this Order with the local Recorder of Deeds.

III. STATEMENT OF PURPOSE

In entering into this Order, the objectives of U.S. EPA and the Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site by conducting a remedial investigation; (b) to determine and evaluate alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site or facility, by conducting a feasibility study; and (c) to provide for the recovery of response and oversight costs incurred by U.S. EPA with respect to this Order.

IV. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds, and, for purposes of enforceability of this Order only, the Respondents stipulate that the factual statutory prerequisites under CERCLA necessary for

3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Each Respondent is a person who either allegedly generated the hazardous substances found at the Site, is a person who at the time of disposal of any hazardous substances owned or operated the Site, or is a person who arranged for disposal or transport for disposal of hazardous substances at the Site. Each Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
5. The presence of hazardous substances at the Site or the past, and present or potential migration of hazardous substances currently located at or emanating from the Site, constitute actual and/or threatened "releases" of hazardous substances from the facility into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
6. The actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the National Contingency Plan ("NCP") and CERCLA.

VI. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, and the Administrative Record for this Site, it is hereby ordered and agreed that each Respondent shall comply with the following provisions, including but not limited to all attachments to this Order, and all documents incorporated by reference into this Order, and perform the following actions:

1. Designation of Contractors, Project Coordinator and Remedial Project Manager

Within 30 days of the effective date of this Order, and before the work outlined below begins, the Respondents shall notify U.S. EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such work. With respect to any proposed contractor, the Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as

determined by U.S. EPA. U.S. EPA retains the right to disapprove of the persons undertaking the work for Respondents. If U.S. EPA disapproves in writing a selected contractor, subcontractor, consultant or laboratory, Respondents shall retain replacement(s) and shall notify U.S. EPA of the identity and qualifications of the replacement(s) within 14 days of the written notice. If U.S. EPA subsequently disapproves of the replacement(s), U.S. EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify U.S. EPA in writing of any changes or additions in the contractors, subcontractors, consultants or laboratories used to carry out such work, providing their names, titles, and qualifications. U.S. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

Within 10 calendar days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order. Respondents shall submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 14 calendar days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 14 calendar days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Mazin Enwiya of the Remedial Response Branch, Region 5, as its Remedial Project Manager ("RPM"). Respondents shall direct all submissions required by this Order to the RPM along with the required copies in accordance with Section XIX (Submittals/Correspondence). All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

U.S. EPA and Respondents shall have the right, subject to the immediately preceding paragraph, to change their designated RPM or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but it shall be promptly followed by a written notice within 4 calendar days of oral notification.

2. Work to Be Performed

Respondents shall develop and submit to U.S. EPA and the Illinois EPA ("IEPA") an RI report, an FS report, and all other deliverables in accordance with the attached Statement of Work ("SOW"). The SOW is incorporated into and made an enforceable part of this Order. All areas at the Site, and all areas where hazardous substances, pollutants or contaminants from the Site have migrated or have been come to be located, will be subject to the RI/FS process.

All activities performed by Respondents under this Order shall be conducted in accordance with CERCLA, the NCP, and U.S. EPA guidance including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05) and guidances referenced therein, and guidances referenced in the Statement of Work, as may be amended or modified by U.S. EPA.

2.1 RI/FS Work Plan

Within 120 calendar days of the effective date of this Order, the Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a draft RI/FS work plan that is consistent with this Order and the SOW.

Upon approval by U.S. EPA (in consultation with IEPA), Respondents shall implement all activities required by the RI/FS Work Plan in accordance with the approved schedules. Respondents shall not commence or undertake any sampling activities either on or off-Site without prior U.S. EPA approval.

2.1.1 Health and Safety Plan

As part of the RI/FS work plan, the Respondents shall submit for U.S. EPA review and comment (in consultation with IEPA) a plan that ensures the protection of the public health and safety during performance of work under this Order. The plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the RI/FS.

2.1.2 Quality Assurance and Sampling

As part of the RI/FS work plan, the Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a sampling and analysis plan. This plan shall consist of a field sampling

plan, a data management plan, and a quality assurance project plan as described in the SOW and U.S. EPA guidances. The Respondents shall ensure that all sampling and analyses performed pursuant to this Order conforms to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratories used to perform the analyses participate in a QA/QC program that complies with U.S. EPA guidance, including ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans" (QA/R-2) (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by U.S. EPA. U.S. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) to meet the quality system requirements.

Upon approval by U.S. EPA (in consultation with IEPA), Respondents shall implement the sampling and analysis plan.

Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with, at a minimum, OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA, IEPA, or their authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA and IEPA not less than 14 calendar days in advance of any sample collection activity. U.S. EPA and IEPA shall have the right to take any additional samples that they deem necessary.

2.2 RI Report

The RI Report will be developed in three primary phases: the Phase I Technical Memorandum, the Phase II Technical Memorandum, and the Risk Assessment Report.

2.2.1 Phase I Technical Memorandum

Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a Phase I Technical Memorandum, in accordance with the

schedule contained in the SOW. The Phase I Technical Memorandum shall present the results of the site characterization activities as described in the SOW.

2.2.2 Phase II Technical Memorandum

Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a Phase II Technical Memorandum, in accordance with the schedule contained in the SOW. The Phase II Technical Memorandum shall present the results of the Phase II Migration Pathway Assessment activities as described in the SOW.

2.2.3 Risk Assessment Report

Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a Risk Assessment Report, in accordance with the schedule contained in the SOW. The Risk Assessment Report shall evaluate both ecological risks and human health risks and shall present the results of the Risk Assessment activities as described in the SOW.

2.2.4 Final RI Report

Within 45 calendar days after approval of the Risk Assessment Report, the Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a draft RI Report that is consistent with this Order and the SOW.

The draft RI report and all revisions thereto shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this Report, the information submitted is true, accurate, and complete.

2.2.5 Interim Actions

In developing the RI, to the extent possible, Respondents shall also identify and evaluate potential interim response activities that may be implemented to reduce or eliminate human exposures to contamination at or from the Site prior to completion of the RI. Such response activities shall be discussed in the Phase II Technical Memorandum, and Respondents may propose to implement such activities pursuant to section VI.2.5 of this Order.

2.3 FS Report

Within 60 calendar days after written approval of the RI report or upon such alternative time as requested by Respondents and approved by U.S. EPA, the Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a draft FS Report that is

consistent with this Order and the SOW. The FS Report will be developed in three primary phases: the Remedial Alternatives Technical Memorandum, the Remedial Alternatives Evaluation, and the draft FS Report.

2.3.1 Remedial Alternatives Technical Memorandum

Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a Remedial Alternatives Technical Memorandum, in accordance with the schedule contained in the SOW. The Remedial Alternatives Technical Memorandum shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives, as provided in the SOW and RI/FS Work Plan. Respondents shall identify remedial action objectives, summarize the development and screening of remedial alternatives, and include an alternatives array document as described in the SOW.

2.3.2 Remedial Alternatives Evaluation

Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a Remedial Alternatives Evaluation, in accordance with the schedule contained in the SOW. The Remedial Alternatives Evaluation shall summarize the results of the comparative analysis performed between the remedial alternatives and present the results of all treatability studies performed, as described in the SOW.

2.3.3 Final FS Report

Within 45 calendar days after approval of the RI Report, the Respondents shall submit to U.S. EPA for approval (with a copy to IEPA) a draft FS Report that is consistent with this Order and the SOW.

The draft FS report and all revisions thereto shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this Report, the information submitted is true, accurate, and complete.

Respondents shall not commence or undertake any remedial actions at the Site without prior U.S. EPA approval.

2.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA and IEPA concerning actions undertaken pursuant to this Order, beginning 30 calendar days after the effective date of this

Order, until termination of this Order, unless otherwise directed in writing by the RPM. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Respondent(s) shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at U.S. EPA's discretion.

Any Respondent that owns any portion of the Site shall, at least 30 calendar days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and IEPA. The notice to U.S. EPA and IEPA shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section VI.3. (Access to Property and Information).

2.5 Additional Work

In the event that the U.S. EPA or the Respondents determine that additional work is necessary to accomplish the objectives of the RI/FS, notification of such additional work shall be provided to the other parties in writing. Any additional work which Respondents determine to be necessary shall be subject to U.S. EPA's written approval (in consultation with IEPA) prior to commencement of the additional work. Respondents shall complete, in accordance with standards, specifications, and schedules U.S. EPA has approved, any additional work Respondents have proposed, and which U.S. EPA has approved in writing or that U.S. EPA has determined to be necessary, and has provided written notice of pursuant to this paragraph. Subject to Dispute Resolution as provided in Section IX, Respondents shall implement the additional tasks that U.S. EPA determines are necessary.

2.6 EPA Approval of Plans and other Submissions

U.S. EPA (in consultation with IEPA) may approve, disapprove, require revisions to, or modify any draft work plan, report or other submission from Respondents required under this Section to conform said work plan, report or submission to the requirements of the SOW, the approved RI/FS Workplan, or the RI/FS Guidance. If U.S. EPA requires revisions, Respondents shall submit a revised submission incorporating all of U.S. EPA's required revisions

within 21 calendar days of receipt of U.S. EPA's notification of the required revisions.

Upon receipt of a written notice of disapproval of a work plan, report or other submission, Respondents shall, within 30 days or such longer time as specified by U.S. EPA in such notice, correct the deficiencies and resubmit the document. Any stipulated penalties applicable to the submission, as provided in Section XI, shall accrue during the 30-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect. In the event of U.S. EPA disapproval of a revised submittal, Respondents may be deemed in violation of this Order. If Respondents are deemed in violation of this Order, U.S. EPA retains the right to seek stipulated or statutory penalties; perform its own studies, complete the RI/FS (or any portion of the RI/FS) under CERCLA and the NCP, and seek reimbursement from the Respondents for its costs; to terminate this Order; and/or seek any other appropriate relief.

Alternatively, U.S. EPA may again require the Respondents to correct the deficiencies, in accordance with the preceding Paragraphs. U.S. EPA also retains the right to modify or develop work plan, report or other submission. Respondents shall implement any such work plan, report or other submission as modified or developed by U.S. EPA consistent with the SOW, subject only to their right to invoke the dispute resolution process as set forth in Section IX.

In the event that a resubmitted document is disapproved by U.S. EPA, Respondents shall be deemed to have failed to submit the submission timely and adequately unless Respondents invoke the dispute resolution procedures set forth in Section IX and U.S. EPA's action is overturned pursuant to that Section. The provisions of Sections IX and XI shall govern the implementation of the Order and accrual and payment of any stipulated penalties during Dispute Resolution.

Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed, at the direction of U.S. EPA, to take any action required by any non-deficient portion of the relevant submission. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XI.

For all remaining deliverables not enumerated above in Sections 2.1-2.3 and 2.5, Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting U.S. EPA approval on the submitted deliverable. U.S. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

2.7 Community Relations and Technical Assistance Plan

U.S. EPA will prepare a Community Relations Plan, in cooperation with IEPA and in accordance with U.S. EPA guidance and the NCP. Respondents shall provide information and conduct other activities as requested by U.S. EPA to support community relations programs. If a community group requests funding for technical assistance, within 30 days after notification by U.S. EPA of such a request, Respondents shall prepare a Technical Assistance Plan. The Technical Assistance Plan shall provide for funding and administration of \$50,000 in funds provided by Respondents to be used by selected qualified representatives of the community for the purpose of providing technical assistance during the response activities conducted under this Order at the Site and through U.S. EPA's issuance of the Record of Decision ("ROD") based on the RI/FS conducted pursuant to this Order. Respondents will provide and administer any additional amounts needed if the selected qualified community group demonstrates such a need (under the standards provided in 40 C.F.R. §35.4065) prior to U.S. EPA's issuance of a ROD for this Site.

3. Access to Property and Information

Respondents shall provide or obtain access to the Site and off-site areas to which access is necessary to implement this Order, and shall provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this Order. Such access shall be provided to U.S. EPA, IEPA, and their employees, contractors, agents, consultants, designees, representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas to which Respondents has access in order to conduct actions which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA and IEPA, upon receipt, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work or action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 30 calendar days after the effective date of this Order, or as otherwise specified in writing by the RPM. Respondents shall notify U.S. EPA within 4 calendar days if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may, in its discretion, then assist Respondents in gaining access, to the extent necessary to effectuate the actions described herein, using such means as U.S. EPA deems appropriate. Respondents shall reimburse U.S. EPA for all costs and attorneys fees incurred by the United States in obtaining such access.

4. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information in their possession relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the actions required by this Order. At the end of this six year period and at least 60 calendar days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide copies of any such non-privileged documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA.

If Respondents assert a privilege in lieu of providing documents, they shall provide U.S. EPA with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and (6) the privilege asserted by Respondents. However, no documents, reports, or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

5. Off-Site Shipments

Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain U.S. EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

6. Compliance With Other Laws

Respondents shall perform all activities required pursuant to this Order in accordance with all the requirements of all federal and state laws and regulations. U.S. EPA has determined that the activities required by this Order are consistent with the NCP.

Except as provided in Section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the activities conducted entirely on-site. Where any portion of the activities is to be conducted off-site and requires a federal or state permit

or approval, the Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

7. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the RPM or, in the event of his unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions. If Respondents fail to respond, U.S. EPA may respond to the release or endangerment and reserve the right to recover costs associated with that response.

Respondents shall submit a written report to U.S. EPA within 10 calendar days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VII. AUTHORITY OF THE U.S. EPA REMEDIAL PROJECT MANAGER

The RPM shall be responsible for overseeing the implementation of this Order. The RPM shall have the authority vested in an RPM and an On-Scene Coordinator by the NCP, including the authority to halt, conduct, or direct any activities required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the RPM from the Site shall not be cause for stoppage of work unless specifically directed by the RPM.

VIII. REIMBURSEMENT OF COSTS

Respondents shall pay all Oversight Costs of the United States related to the Site that are not inconsistent with the NCP. U.S. EPA will send Respondents a bill for Oversight Costs on an annual basis. The bill shall consist of an Itemized Costs Summary. "Oversight Costs" are all costs paid by U.S. EPA after

the effective date of this Order relating to this Order, including, but not limited to direct and indirect costs related to overseeing work performed under this Order, and reviewing or developing plans, reports and other items pursuant to this Order.

Respondents shall, within 45 calendar days of receipt of a bill from U.S. EPA, remit a cashier's or certified check for the amount of the bill made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting and Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Ellsworth Industrial Park Site" and shall reference the payor(')s(') name and address, the U.S. EPA site identification number B52A, and the docket number of this Order.

The total amount to be paid by Respondents under this Section shall be deposited in the Ellsworth Industrial Park Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

In the event that any payment is not made within the deadlines described above, Respondents shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). The interest shall begin to accrue on the date of the Respondents' receipt of the bill (or for Past Response Costs, on the effective date of this Order). Interest shall accrue at the rate specified through the date of the payment. Payments of interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section.

If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the RPM. Respondents shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they

prevailed from the escrow funds plus interest within 20 calendar days after the dispute is resolved.

IX. DISPUTE RESOLUTION

The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreements concerning this Order.

If the Respondents object to any U.S. EPA action taken pursuant to this Order, including billings for response costs, the Respondents shall notify U.S. EPA in writing of their objection(s) within 10 calendar days of such action, unless the objection(s) has (have) been informally resolved. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondents' position, and all supporting documentation on which the Respondents rely (hereinafter the "Statement of Position").

U.S. EPA and Respondents shall within 15 calendar days of U.S. EPA's receipt of the Respondents' Statement of Position, attempt to resolve the dispute through formal negotiations ("Negotiation Period"). The Negotiation Period of 15 calendar days may be extended at the sole discretion of U.S. EPA. U.S. EPA's decision regarding an extension of the Negotiation Period shall not constitute a U.S. EPA action subject to dispute resolution or a final Agency action giving rise to judicial review.

An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding paragraph.

Any agreement reached by the parties pursuant to this Section shall be in writing, signed by all parties, and shall upon the signature by the parties be incorporated into and become an enforceable element of this Order. If the parties are unable to reach an agreement within the Negotiation Period the Director of the U.S. EPA Superfund Division, Region 5, will issue a written decision on the dispute to the Respondents. The decision of U.S. EPA shall be incorporated into and become an enforceable element of this Order upon Respondents' receipt of the decision regarding the dispute.

Respondents' obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with U.S. EPA's decision, whichever occurs. No U.S. EPA decision

made pursuant to this Section shall constitute a final Agency action giving rise to judicial review.

X. FORCE MAJEURE

Respondents agree to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondents that delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the work, increased cost of performance, or normal weather events.

Respondents shall notify U.S. EPA orally within 24 hours after Respondents become aware of any event that Respondents contend constitute a force majeure, and in writing within 7 calendar days after Respondents become aware of any events which constitute a force majeure. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and re-mobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondents shall take all reasonable measures to avoid and minimize the delays. Failure to comply with the notice provision of this Section shall be grounds for U.S. EPA to deny Respondents an extension of time for performance. Respondents shall have the burden of demonstrating by a preponderance of the evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay to the satisfaction of U.S. EPA.

If U.S. EPA determines a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by U.S. EPA. Such an extension shall not alter Respondents' obligation to perform or complete other tasks required by the Order which are not directly affected by the force majeure.

XI. STIPULATED AND STATUTORY PENALTIES

For each calendar day, or portion thereof, that Respondents fail to fully perform any requirement of this Order in accordance with the schedule established pursuant to this Order, Respondents shall be liable as follows:

<u>Deliverable/Activity</u>	<u>Penalty For Days 1-7</u>	<u>Penalty For > 7 Days</u>
Failure to Submit a Draft work plan or RI or FS Report	\$500/Day	\$1250/Day
Failure to Submit a revised work plan or RI or FS Report	\$500/Day	\$1250/Day
Failure to Submit a Data Report or Technical Memorandum	\$500/Day	\$1,000/Day
Late Submittal of Progress Reports or Other Miscellaneous Reports/Submittals	\$250/Day	\$ 500/Day
Failure to Meet any Scheduled Deadline in the Order	\$250/Day	\$ 500/Day

Upon receipt of written demand by U.S. EPA, Respondents shall make payment to U.S. EPA within 20 calendar days and interest shall accrue on late payments in accordance with Section VIII of this Order ("Reimbursement of Costs").

Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether U.S. EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligation(s) to complete the performance of the work required under this Order. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. If Respondents prevail upon resolution, Respondents shall pay only such penalties as the resolution requires. In its unreviewable discretion, U.S. EPA may waive its rights to demand all or a portion of the stipulated penalties due under this Section.

The stipulated penalties set forth above shall not be the sole or exclusive remedy for violations of this Order and shall not

preclude U.S. EPA from pursuing any other remedy or sanctions which are available to the agencies because of the Respondents' failure to comply with this Consent Order. Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out all or part of the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §§ 9604. Payment of stipulated penalties does not alter Respondents' obligation to complete performance under this Consent Order.

XII. RESERVATION OF RIGHTS

Except as specifically provided in this Order, nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, or oil or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. U.S. EPA reserves its rights in regard to claims, prior actions, orders, or agreements with Respondents. The covenant not to sue by U.S. EPA set forth in Section XIV does not pertain to any matters other than those expressly identified therein. The United States and U.S. EPA reserve, and this Agreement is without prejudice to, all rights against the Respondents with respect to all other matters, including but not limited to:

- a. liability for failure of Respondents to meet a requirement of this Order by Consent;
- b. liability for costs incurred or to be incurred that are not Oversight Costs as defined in Section VII of this Order;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606, excluding work performed under the terms of this Order;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

XIII. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

Except as expressly provided in Section XIV (Covenant Not To Sue), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondents waive any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

No action or decision by U.S. EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XIV. COVENANT NOT TO SUE

Except as otherwise specifically provided in this Order, upon issuance of the U.S. EPA notice referred to in Section XVIII (Notice of Completion), U.S. EPA covenants not to sue Respondents for judicial imposition of damages or civil penalties or to take administrative action against Respondents for any failure to perform actions agreed to in this Order except as otherwise reserved herein.

Except as otherwise specifically provided in this Order, in consideration and upon Respondents' payment of the Oversight Costs specified in Section VIII of this Order, U.S. EPA covenants not to sue or to take administrative action against Respondents under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for recovery of Oversight Costs incurred by the United States in connection with this action or this Order. This covenant not to sue shall take

effect upon the receipt by U.S. EPA of the payments required by Section VIII (Reimbursement of Costs).

These covenants not to sue are conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Order. These covenants not to sue extend only to the Respondents and do not extend to any other person.

XV. CONTRIBUTION PROTECTION

With regard to claims for contribution against Respondents for matters addressed in this Order, the Parties hereto agree that the Respondents are entitled to protection from contribution actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4). Nothing in this Order precludes Parties to this Order from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVI. INDEMNIFICATION

Respondents agree to indemnify, save and hold harmless the United States their agencies, departments, officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Respondents and Respondents' officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this Order; (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between (any one or more of) Respondents, and any persons for performance of work on or relating to the Site, including claims on account of construction delays; and (C) for any claim or cause of action against the United States based on negligent action taken solely and directly by U.S. EPA including oversight, modification and/or approval of plans or activities of the Respondents. The U.S. EPA shall not be construed to be a party to any contract involving the Respondents at the Site.

XVII. MODIFICATIONS

Except as otherwise specified in Section VI.2. (Work To Be Performed), if any party believes modifications to any plan or schedule are necessary during the course of this project, they shall conduct informal discussions regarding such modifications with the other parties. Any agreed-upon modifications to any plan

or schedule shall be memorialized in writing within 10 calendar days; however, the effective date of the modification shall be the date of the RPM's oral direction. Any other requirements of this Order may be modified in writing by mutual agreement of the parties. Any modification to this Order shall be incorporated into and made an enforceable part of this Order.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval (in consultation with IEPA) outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XVIII. NOTICE OF COMPLETION

When U.S. EPA determines that all work, including the RI and FS Reports, has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention, payment of costs), U.S. EPA will provide written notice to the Respondents.

XIX. SUBMITTALS/CORRESPONDENCE

Any notices, documents, information, reports, plans, approvals, disapprovals, or other correspondence required to be submitted from one party to another under this Order, shall be deemed submitted either when hand-delivered or as of the date of receipt by certified mail/return receipt requested, express mail, or facsimile in accordance with this section.

Correspondence and communications from U.S. EPA and IEPA shall be addressed to:

[insert names]

Three copies of all correspondence, communication, and submittals from Respondents shall be directed to the following, and additional copies to other individuals he may identify:

Mazin M. Enwiya
 Remedial Project Manager
 United States Environmental Protection Agency
 77 West Jackson Blvd., Mailcode SR-6J
 Chicago, Illinois 60604-3590
 Phone (312) 353-8414
 FAX (312) 353-5541
 Email "enwiya.mazin@epa.gov"

Two copies of all correspondence, communication, and submittals from Respondents shall be directed to the following, and additional copies to other individuals he may identify:

Fred W. Nika, Jr.
 Remedial Project Manager
 Illinois Environmental Protection Agency
 Division of Remediation Management
 1021 North Grand Avenue East
 Springfield, Illinois 62702
 Phone (217) 782-3983
 FAX (217) 782-3258
 E-mail "epa4217@epa.state.il.us"

One copy of all correspondence, communication, and submittals from Respondents shall be directed to:

Thomas Krueger
 Associate Regional Counsel
 U.S. EPA - Region 5
 77 West Jackson Boulevard, C-14J
 Chicago, Illinois 606064-3590
 Phone (312) 886-4273
 FAX (312) 886-0747
 E-mail "krueger.thomas@epa.gov"

XX. SEVERABILITY

If a court of competent jurisdiction issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XXI. FINANCIAL ASSURANCE AND INSURANCE

Respondents shall establish and maintain a financial instrument or trust account or other financial mechanism acceptable to U.S. EPA, funded sufficiently to perform the work and any other obligations required under this Order, including a margin for cost overruns.

Within 15 days after the effective date of this Order, Respondents shall fund the financial instrument or trust account sufficiently to perform the work required under this Order projected for the period beginning with the effective date of the Order through December 31, 2003. Beginning December 15 2003, and on or before the 15th calendar day of each calendar year quarter thereafter, Respondents shall fund the financial instrument or trust account sufficiently to perform the work and other activities required under this Order projected for the succeeding calendar year quarter.

If at any time the net worth of the financial instrument or trust account is insufficient to perform the work and other obligations under the Order for the upcoming quarter, Respondents shall provide written notice to U.S. EPA within 7 days after the net worth of the financial instrument or trust account becomes insufficient. The written notice shall describe why the financial instrument or trust account is funded insufficiently and explain what actions have been or will be taken to fund the financial instrument or trust account adequately.

Prior to commencement of any work under this Order, Respondents shall secure, and shall maintain in force for the duration of this Order, and for two years after the completion of all activities required by this Order, Comprehensive General Liability ("CGL") and automobile insurance, with limits of \$2 million dollars, combined single limit, naming as insured the United States. The CGL insurance shall include Contractual Liability Insurance in the amount of \$_____ per occurrence, and Umbrella Liability Insurance in the amount of \$2 million per occurrence.

Respondents shall also secure, and maintain in force for the duration of this Order and for two years after the completion of all activities required by this Consent Order the following:

- A. Professional Errors and Omissions Insurance in the amount of \$1,000,000.00 per occurrence.
- B. Pollution Liability Insurance in the amount of \$1,000,000.00 per occurrence, covering as appropriate both general liability and professional liability arising from pollution conditions.

For the duration of this Order, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and workmen's compensation insurance for all persons performing work on behalf of the Respondents, in furtherance of this Order.

If Respondents demonstrate by evidence satisfactory to U.S. EPA that any contractor or subcontractor maintains insurance

equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor Respondents need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

Prior to commencement of any work under this Order, and annually thereafter on the anniversary of the effective date of this Order, Respondents shall provide to U.S. EPA certificates of such insurance and a copy of each insurance policy.

At least 7 days prior to commencing any work under this Order, Respondents shall certify to U.S. EPA that the required insurance has been obtained by that contractor.

XXI. EFFECTIVE DATE AND COMPUTATION OF TIME

This Order shall be effective upon signature by the Director, Superfund Division, U.S. EPA Region 5. For the purposes of this Order, the term "day" shall mean a calendar day. In computing any period of time under this Order, where the last day of the period would fall on a Saturday or Sunday, the period shall run until noon, Central Time of the following Monday.

IN THE MATTER OF:

ELLSWORTH INDUSTRIAL PARK SITE, DOWNERS GROVE, IL

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this _____ day of _____, 2002.

By _____

By _____

By _____

IT IS SO ORDERED AND AGREED

BY: _____
William E. Muno, Director
Superfund Division United States
Environmental Protection Agency
Region 5

DATE: _____

ATTACHMENT A

To be developed

ATTACHMENT B

To be developed

ENCLOSURE E

Scope of Work

**STATEMENT OF WORK
FOR A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
AT THE ELLSWORTH INDUSTRIAL PARK SITE
IN THE VILLAGE OF DOWNERS GROVE, DuPAGE COUNTY, ILLINOIS**

PURPOSE:

The purpose of this Statement of Work (SOW) is to set forth requirements for the preparation of an initial report and Work Plan evaluating and proposing interim actions at the Ellsworth Industrial Park Site ("the Site") for water supply alternatives, and for the preparation of a streamlined Remedial Investigation (RI) and Feasibility Study (FS). The RI shall evaluate the nature and extent of contamination at and from the Site, which includes source area control and groundwater assessment, and shall assess the risk from this contamination on human health and the environment. The FS shall evaluate alternatives for addressing the impact to human health and the environment from the contamination at the Site and nearby areas. The RI and FS Reports shall be conducted, at a minimum, consistent with the "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA" (U.S. EPA, Office of Emergency and Remedial Response, October, 1988) and any other guidance that U.S. EPA uses to conduct an RI/FS, as well as any additional requirements in the Administrative Order on Consent (AOC).

All documents or deliverables required as part of this SOW shall be submitted to U.S. EPA, with a copy to the Illinois Environmental Protection Agency (Illinois EPA), for review and approval by U.S. EPA, in consultation with Illinois EPA. The PRPs shall furnish all personnel, materials, and services necessary for, or incidental to, performing the RI/FS at the Site, except as otherwise specified herein.

At the completion of the RI/FS, U.S. EPA, in consultation with Illinois EPA, will be responsible for the selection of a Site remedy or remedies and will document this remedy selection in a Record of Decision (ROD). The remedial actions selected by U.S. EPA will meet the cleanup standards specified in CERCLA Section 121. That is, the selected remedial actions will be protective of human health and the environment, will be in compliance with, or include a waiver of, applicable or relevant and appropriate requirements of other laws, will be cost-effective, will use permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable, and will address the statutory preference for treatment as a principal element. The final RI and FS Reports as adopted by U.S. EPA will, with the administrative record, form the basis for the selection of the Site remedies and will provide the information necessary to support the development of the ROD.

As specified in CERCLA Section 104(a)(1), as amended by SARA, U.S. EPA will provide oversight of the PRPs' activities throughout the RI/FS, including all field sampling activities. The PRPs will support U.S. EPA's initiation and conduct of activities related to the implementation of oversight activities.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

SCOPE:

The tasks to be completed as part of this RI/FS are:

- Task 1: Evaluating and Proposing Interim Actions
- Task 2: RI/FS Work Plan
- Task 3: Additional Site-Specific Plans
- Task 4: Treatability Studies
- Task 5: Monthly Progress Reports

TASK 1: EVALUATING AND PROPOSING INTERIM ACTIONS

The PRPs shall prepare and submit a report to U.S. EPA and Illinois EPA evaluating and proposing water supply alternatives. The report shall also outline efforts associated with the abandonment of groundwater wells and simultaneously conducting a residential vapor intrusion study. The PRPs shall also submit a residential vapor intrusion study proposal that should include modeling using the ASTM model 1739-95, soil gas sampling, and indoor air sampling. Upon approval of the interim actions report, the PRPs shall prepare and submit a Work Plan detailing the activities associated with providing alternative water supply, abandonment of groundwater wells, and conducting a residential vapor intrusion study.

TASK 2: RI/FS WORK PLAN

PRPs shall prepare and submit a RI/FS Work Plan within 120 calendar days from the effective date of the AOC. PRPs shall use information from the existing information/documents, appropriate U.S. EPA guidance, and technical direction provided by the U.S. EPA Remedial Project Manager (RPM) as the basis for preparing the RI/FS Work Plan. If U.S. EPA disapproves or requires revisions to the RI/FS Work Plan, in whole or in part, PRPs shall amend and submit to U.S. EPA a revised Work Plan which is responsive to the directions in all U.S. EPA comments, within 21 days of receiving U.S. EPA's comments. The RI/FS work must be coordinated and properly sequenced with the U.S. EPA. PRPs shall submit duplicate copies of the Work Plan to the U.S. EPA RPM and the Illinois Project Manager.

The RI/FS Work Plan shall include a comprehensive description of project tasks, the procedures to accomplish them, project documentation, and project schedule. PRPs shall use their quality assurance/quality control (QA/QC) systems and procedures to assure that the work plan and other deliverables are of professional quality requiring only minor revisions. Specifically, the Work Plan shall include the following elements:

- Identification of RI/FS project elements and the associated tasking including review of site documentation; previous field sampling and analysis activities, data gap description, and treatability study activities. Output of this task will be a detailed work breakdown structure of the RI/FS project.
- PRPs's technical approach to each task to be performed, including a detailed description of each task; the assumptions used; any information to be produced during and at the conclusion of each task; and a description of the work products that will be submitted to the U.S. EPA. Information shall be presented in a sequence consistent with the SOW.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

- A schedule with specific dates for completion of each required activity and submission of each deliverable required by the SOW. This schedule shall also include information regarding timing, initiation, and completion of all critical path milestones for each activity and deliverable and the expected review time for the U.S. EPA.
- A list of key personnel providing support on the work assignment.

2.1 *Health and Safety Plan.* Prepare a site-specific HASP that specifies employee training, protective equipment, medical surveillance requirements, standard operating procedures, and a contingency plan in accordance with 40 CFR 300.150 of the NCP and 29 CFR 1910.120 1(1) and 1(2), and U.S. EPA's OSHA Manual. A task-specific HASP must also be prepared to address health and safety requirements for site visits.

2.2 *Quality Assurance and Sampling.* The PRPs shall prepare a Quality Assurance Project Plan (QAPP) in accordance with EPA QA/R-5 (latest draft or revision). The QAPP shall describe the project objectives and organization, functional activities, and quality assurance/quality control (QA/QC) protocols that shall be used to achieve the desired Data Quality Objectives (DQOs). The DQOs shall, at a minimum, reflect use of analytical methods for identifying contamination and addressing contamination consistent with the levels for remedial action objectives identified in the National Contingency Plan. The QAPP developed for the RI/FS should be referenced or adapted whenever possible when preparing the QAPP for the RI/FS.

The PRPs shall also prepare a Field Sampling Plan (FSP) that defines the sampling and data collection methods that shall be used for the project. The FSP shall include sampling objectives; sample locations and frequency; sampling equipment and procedures; sample handling and analysis; and a breakdown of samples to be analyzed through the Contract Laboratory Program (CLP) and through other sources, as well as the justification for those decisions. The FSP shall consider the use of all existing data and shall justify the need for additional data whenever existing data will meet the same objective. The FSP shall be written so that a field sampling team unfamiliar with the site would be able to gather the samples and field information required. The PRPs shall document any required changes to the FSP in a memorandum to the RPM.

2.3 *RI Report.* The RI Report will be developed in three primary phases: the Phase I Technical Memorandum, the Phase II Technical Memorandum, and the Risk Assessment Report.

2.3.1 *Phase I Technical Memorandum.* PRPs shall submit to U.S. EPA for approval (with a copy to IEPA) a Phase I Technical Memorandum. The first phase of investigation will be carried out to characterize the physical and chemical aspects of contaminated groundwater and of soil and sediment contaminant source areas. The investigation of these source areas will involve obtaining data related to:

- Characteristics (e.g., type, quantity, chemical and physical properties, and concentrations) of on-site soils and sediments.

This information will be obtained from a combination of existing site information, field inspections, and site sampling activities. The source characterization will culminate in the preparation and submittal of a technical memorandum for the Phase I investigation activities. This technical memorandum will summarize the findings of the source characterization and may be used to refine the scope of the Phase II investigation activities outlined below.

The PRPs shall complete site characterization within 21 days of U.S. EPA's approval or modification of the Work Plan and sampling and analysis plans. PRPs shall provide U.S. EPA with analytical data within 21 days of each sampling activity, in a electronic format (i.e., computer disk) showing the location, medium and results. Within 7 days of completion of field activities, PRPs shall notify U.S. EPA in writing.

2.3.2 *Phase II Technical Memorandum.* PRPs shall submit to U.S. EPA for approval (with a copy to IEPA) a Phase II Technical Memorandum. The second phase of investigation will consist of a migration pathway assessment. The potential migration pathways at the site consist of groundwater. The migration pathway assessment will culminate in the preparation and submittal of a Phase II technical memorandum describing the findings of the Phase II investigations.

2.3.3 *Risk Assessment Reports.* The Risk Assessment will determine whether site contaminants pose a current of potential risk to human health and the environment in the absence of any remedial action. The PRPs shall address the contaminant identification, exposure assessment, toxicity assessment, and risk characterization. The Risk Assessment will be used to determine whether remediation is necessary at the site, provide justification for performing remedial action, and determine what exposure pathways need to be remediated.

2.3.3.1 *Human Health Risk Assessment Report.* The human health risk assessment shall focus on actual and potential risks to persons coming into contact with on-site contaminants as well as risks to the nearby residential and industrial worker populations from exposure to contaminated soils, sediments, surface water, air, and ingestion of contaminated organisms in nearby, impacted ecosystems. Central tendency and reasonable maximum estimates of exposure shall be defined for current land use conditions and reasonable future land use conditions. The risk assessment shall use data from the Site and nearby areas to identify the contaminants of concern (COC), provide an estimate of how and to what extent human receptors might be exposed to these contaminants, and provide an assessment of the health effects associated with these contaminants. The evaluation shall project the potential risk of health problems occurring if no cleanup action is taken at the Site and/or nearby areas, and establish target action levels for COCs (carcinogenic and non-carcinogenic).

The risk evaluation shall be conducted in accordance with U.S. EPA guidance including, at a minimum: "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A)," Interim Final (EPA-540-1-89-002)," OSWER Directive 9285.7-01A; December 1, 1989; and "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Interim, (EPA 540-R-97-033), OSWER 9285.7-01D, January, 1998.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

The human health risk assessment shall also include the following elements:

- Hazard Identification (sources). The PRPs shall review available information on the hazardous substances present at the Site and nearby areas, and identify the major COCs. COCs should be selected based on their detected concentrations and intrinsic toxicological properties.
- Conceptual Site Model and Exposure/Pathway Analysis.
- Characterization of Site and Potential Receptors.
- Exposure Assessment. PRPs shall develop central tendency and reasonable maximum estimates of exposure for current and potential land use conditions at and near the Site.
- Toxicity Assessment
- Risk Characterization.
- Identification of Limitations/Uncertainties.

2.3.3.2 Ecological risk Assessment Report. The ecological risk assessment shall be conducted in accordance with U.S. EPA guidance including, at a minimum: "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments," (EPA-540-R-97-006, June 1997), OSWER Directive 9285.7-25.

The ecological risk assessment shall describe the data collection activities conducted as part of Task 1(B)(vi) as well as the following information:

- Hazard Identification (sources). The PRPs shall review available information on the hazardous substances present at and adjacent to the Site and identify the major COCs.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

- Dose-Response Assessment. COCs should be selected based on their intrinsic toxicological properties.
- Preparation of Conceptual Exposure/Pathway Analysis.
- Characterization of Site and Potential Receptors.
- Selection of Chemicals, Indicator Species, and End Points. In preparing the assessment, the PRPs shall select representative chemicals, indicator species (species that are especially sensitive to environmental contaminants), and end points on which to concentrate.
- Exposure Assessment. The exposure assessment will identify the magnitude of actual exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels.
- Toxicity Assessment/Ecological Effects Assessment. The toxicity and ecological effects assessment will address the types of adverse environmental effects associated with chemical exposures, the relationships between magnitude of exposures and adverse effects, and the related uncertainties for contaminant toxicity (e.g., weight of evidence for adverse effects).
- Risk Characterization. During risk characterization, chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, shall be compared to measured levels of contaminant exposure levels and the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near the Site are affecting or could potentially affect the environment.
- Identification of Limitations/Uncertainties. The PRPs shall identify critical assumptions (e.g., background

concentrations and conditions) and uncertainties in the report.

- 2.4 *FS Report.* Within 60 calendar days after written approval of the RI report or upon such alternative time as requested by PRPs and approved by U.S. EPA, the PRPs shall submit to U.S. EPA for approval (with a copy to IEPA) a draft FS Report consisting of a detailed analysis of alternatives and cost-effectiveness analysis in accordance with NCP 300.68(h)(3)(I)(2). The FS Report shall contain a summary of alternative remedial actions in accordance with Chapter 3, NCP 300.68(h)(3)(I)(2)(A); 2) Cost Analysis in accordance with Chapter 7, NCP 300.68(h)(3)(I)(2)(B); 3) Institutional analysis in accordance with Chapter 4, NCP 300.68(h)(3)(I)(2)(C); 4) Public-health analysis in accordance with Chapter 5, NCP 300.68(h)(3)(I)(2)(D); 5) Environmental analysis in accordance with Chapter 6, NCP 300.68(h)(3)(I)(2)(E). The FS Report will be developed in three primary phases: the Remedial Alternatives Technical Memorandum, the Remedial Alternatives Evaluation, and the draft FS Report.

2.4.1 *Remedial Alternatives Technical Memorandum.* PRPs shall submit to U.S. EPA for approval (with a copy to IEPA) a Remedial Alternatives Technical Memorandum. The Remedial Alternatives Technical Memorandum shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives. PRPs shall identify remedial action objectives, summarize the development and screening of remedial alternatives, and include an alternatives array document.

2.4.2 *Remedial Alternatives Evaluation.* PRPs shall submit to U.S. EPA for approval (with a copy to IEPA) a Remedial Alternatives Evaluation.

The preliminary list of alternatives to address soil, sediments, surface water, groundwater, and air contamination at the Site and nearby areas shall consist of, but is not limited to, treatment technologies (i.e., thermal methods), removal and off-site treatment/disposal, removal and on-site disposal, and in-place containment for soils, sediments, and wastes.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

Based on the analysis of the nature and extent of contamination and on the cleanup objectives developed in the previous sections, a limited number of alternatives appropriate for addressing the remedial action objectives shall be identified and assessed. The limited number of alternatives identified shall be a result of a preliminary screening and evaluation of the larger set of remedial alternatives initially identified. The limited number of alternatives shall include a “no-action alternative.” Whenever practicable, the alternatives shall also consider the CERCLA preference for treatment over conventional containment or land disposal approaches.

The use of presumptive remedy guidance, if appropriate and applicable to any of the disposal areas of the Site, may also provide an immediate focus to the identification and analysis of alternatives. This guidance includes, but is not limited to: “Implementing Presumptive Remedies” (EPA 540-R-97-029, October 1997). Presumptive remedies involve the use of remedial technologies that have been consistently selected at similar sites or for similar contamination.

The limited number of alternatives selected for detailed analysis, including any identified presumptive remedies, shall be described with enough detail so that the entire treatment process can be understood. Technologies that may apply to the media or source of contamination shall be listed in the RI/FS Report.

TASK 3: ADDITIONAL SITE-SPECIFIC PLANS

3.1 *Develop Site Management Plan.* After the U.S. EPA approval of the RI/FS Work Plan, the PRPs shall prepare a Site Management Plan (SMP) 30 days after RI/FS Work Plan approval that provides U.S. EPA with a written understanding of how access, security, contingency procedures, management responsibilities, and waste disposal are to be handled.

3.1.1 *Develop Pollution Control and Mitigation Plan.* PRPs shall prepare a Pollution Control & Mitigation Plan that outlines the process, procedures, and safeguards that will be used to ensure contaminants or pollutants are not released off-site during the implementation of the RI.

- 3.1.2 *Develop Transportation and Disposal Plan (Waste Management Plan).* PRPs shall prepare a Transportation & Disposal Plan that outlines how wastes that are encountered during the RI will be managed and disposed of. PRPs shall specify the procedures that will be followed when wastes will be transported off-site for storage, treatment, and/or disposal.
- 3.1.3 *Data Management Plan.* PRPs shall prepare a Data Management Plan that outlines the procedures for storing, handling, accessing, and securing data collected during the RI.
- 3.1.4 *Develop Other Plan(s).* PRPs shall develop other plans, as necessary, to implement the RA.

TASK 4: TREATABILITY STUDIES

Technologies that may be suitable to the Site should be identified as early as possible to determine whether there is a need to conduct treatability studies to better estimate costs and performance capabilities. At present, it is unknown whether a bench test or pilot study will be conducted. However, should a bench test or pilot study be determined as necessary, the PRPs shall submit a testing plan identifying the types and goals of the study. The treatability study shall determine the suitability of remedial technologies to site conditions and problems.

The three levels of treatability studies are laboratory screening, bench-scale testing, and pilot-scale testing. The laboratory screening is used to establish the validity of a technology to treat waste and is normally conducted during the FS. Bench-scale testing is used to identify the performance of the technology specific to a type of waste for an operable unit. Often bench-scale tests are conducted during the FS. Pilot-scale testing is used to provide quantitative performance, cost, and design information for remediation and is typically performed during RI/FS (see the Fact Sheet, *Guide for Conducting Treatability Studies Under CERCLA*, November, 1993).

During treatability studies, PRPs shall provide U.S. EPA with the following deliverables:

- 4.1 *Identification of Candidate Technologies Memorandum.* This memorandum shall be submitted within 30 days after completion of field investigations. If U.S. EPA disapproves of or requires revisions to the technical memorandum identifying candidate technologies, in whole or in part, PRPs shall amend and submit to U.S. EPA a revised technical memorandum identifying candidate technologies which is responsive to the directions in all U.S. EPA comments, within 21 days of receiving U.S. EPA's comments.

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

- 4.2 *Treatability Testing Statement of Work.* If U.S. EPA determines that treatability testing is required, within 30 days thereafter [or as specified by U.S. EPA], PRPs shall submit a treatability testing Statement of Work.
- 4.3 *Treatability Testing Work Plan.* Within 30 days of submission of the treatability testing Statement of Work, PRPs shall submit a treatability testing Work Plan, including a schedule. If U.S. EPA disapproves of or requires revisions to the treatability testing Work Plan, in whole or in part, PRPs shall amend and submit to U.S. EPA a revised treatability testing Work Plan which is responsive to the directions in all U.S. EPA comments, within 21 days of receiving U.S. EPA's comments.
- 4.4 *Treatability Study Sampling and Analysis Plan.* Within 30 days of the identification of the need for a separate or revised QAPP or FSP, PRPs shall submit a treatability study sampling and analysis plan. If U.S. EPA disapproves of or requires revisions to the treatability study sampling and analysis plan, in whole or in part, PRPs shall amend and submit to U.S. EPA a revised treatability study sampling and analysis plan which is responsive to the directions in all U.S. EPA comments, within 21 days of receiving U.S. EPA's comments.
- 4.5 *Treatability Study Site Health and Safety Plan.* Within 30 days of the identification of the need for a revised health and safety plan, PRPs shall submit a treatability study site health and safety plan.
- 4.6 *Treatability Study Evaluation Report.* Within 30 days of completion of any treatability testing, PRPs shall submit a treatability study evaluation report as provided in the Statement of Work and Work Plan. If U.S. EPA disapproves of or requires revisions to the treatability study report, in whole or in part, PRPs shall amend and submit to U.S. EPA a revised treatability study report which is responsive to the directions in all U.S. EPA comments, within 21 days of receiving U.S. EPA's comments.

TASK 5: MONTHLY PROGRESS REPORTS

The PRPs shall submit monthly written progress reports to U.S. EPA and Illinois EPA concerning actions undertaken pursuant to the AOC and this SOW, beginning 30 calendar days after the effective date of the AOC, until termination of the AOC, unless otherwise directed in writing by the RPM. These reports shall describe all significant developments during the preceding period, including the work performed and problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

period, including a schedule of work to be performed, anticipated problems, and actual or planned resolutions of past or anticipated problems.

ATTACHMENT A

Summary of Major Submittals for the Remedial Investigation/Feasibility (RI/FS) Study Ellsworth Industrial Park Downers Grove, DuPage County, Illinois		
DELIVERABLE	COPIES	SUBMITTAL DATE
Interim Actions Report	3	60 days after effective date of AOC
Residential Vapor Intrusion Study	3	60 days after effective date of AOC
Interim Action Work Plan	3	30 days after approval of Interim Actions Report
Draft RI/FS Work Plan	3	120 days after effective date of AOC
Final RI/FS Work Plan	3	21 days after EPA comments
Health & Safety Plan	3	within 120 days after effective date of AOC
Field Sampling Plan	3	within 120 days after effective date of AOC
Quality Assurance & Analysis Plan	3	within 120 days after effective date of AOC
Remedial Investigation (RI) Report	3	45 days after approval of Risk Assessment
Phase I Tech Memo	3	30 days after RI/FS Work Plan approval
Phase II Tech Memo	3	60 days after RI/FS Work Plan approval
Human Health Risk Assessment Report	3	90 days after RI/FS Work Plan approval
Ecological Risk Assessment Report	3	90 days after RI/FS Work Plan approval
Feasibility Study Report	3	60 days after completion of RI
Remedial Alternatives Tech Memo	3	30 days after completion of field investigations
Remedial Alternatives Evaluation	3	30 days after approval of RA Tech Memo
Site Management Plan	3	30 days after approval of RI/FS Work Plan

Ellsworth Industrial Park SITE RI/FS SOW (Continued)

Summary of Major Submittals for the Remedial Investigation/Feasibility (RI/FS) Study Ellsworth Industrial Park Downers Grove, DuPage County, Illinois		
DELIVERABLE	COPIES	SUBMITTAL DATE
Pollution control and Mitigation Plan	3	30 days after approval of RI/FS Work Plan
Transportation and Disposal Plan	3	30 days after approval of RI/FS Work Plan
Data Management Plan	3	30 days after approval of RI/FS Work Plan
Identification of Candidate Technologies Memorandum	3	30 days after completion of field investigations
Treatability Testing Statement of Work	3	30 days after completion of field investigations
Treatability Testing Work Plan	3	30 days after approval of Treatability Testing Statement of Work
Treatability Study Sampling and Analysis Plan	3	30 days after completion of field investigations
Treatability Study Site Health and Safety Plan	3	30 days after completion of field investigations
Treatability Study Evaluation Report	3	30 days after completion of field investigations
Monthly Progress Reports	3	In accordance with the AOC